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Young Law Firm
Suite 106
4370 Alpine Road
Portola Valley, CA 94028

EXAMINER

NICHOLSON, ERIC K

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,006

Applicant(s)

HELLE, JACKY

Examiner

Eric K Nicholson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-14, 16 and 18-35 is/are rejected.
- 7) ☒ Claim(s) 15 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 29, 2004 has been entered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second gasket mounted on the sleeve as claimed in claims 15 and 17. No new matter should be entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12,13,16,22,23,27 and 35 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 5,360,241 to Gundy.

As to claims 12 and 35 Gundy illustrates in figs. 1-12 a saddle hub including lateral attachment means disposed on each side of the saddle hub 52 and a saddle hub mounting device 55 including tightening means 102,103 for tightening a saddle hub the tightening means being configured to cooperate with the lateral attachment means and including an open and deformable bracelet 56 wherein the bracelet 56 includes a flat and flexible band that is configured to be installed on the saddle hub by rotation, the flat and flexible band defining a plurality of spaced openings (see fig. 1 and column 7, lines 1-5) to enable the saddle hub to fit pipes and of various outer diameters (see column 7, lines 10-11) by attachment to the lateral attachment means of the saddle hub through selected openings in the bracelet, the saddle hub and the bracelet forming a ring and the lateral attachment means being configured to enable the saddle hub to fit types of different outer diameters by attaching and tightening to that tightening means. As to claim 13 of the saddle hub is a bypass saddle hub as shown by fig. 1. As to claim 16 and the attachment means includes a thread tapping on device 102 and engaged by screw 104. As to claim 22 the band is configured to be dimensioned according to an outer diameter of the pipes onto which the saddle is to be fitted, see column 7, lines 10-11. As to claim 23 an end of the bracelet is clamped down on a cylindrical nut 102 by a screw 104 inserted through an opening defined in the bracelet. As to claim 27 the openings in the bracelet are defined from end to end of the bracelet at regular intervals see fig. 1 and column 7, lines 1-5

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14, 16, 22, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 534,881 to Hearne et al. in view of British patent 1,091,927. The Hearne saddle coupling discloses the claimed device with 27 a saddle hub including lateral attachment means 15, 17 disposed on each side of the saddle hub and a saddle hub mounting device 18 including tightening means in the way of threads 11 the tightening means being configured to cooperate with the lateral attachment means 17 wherein the mounting device is an open and deformable bracelet in the form of a chain and defining a plurality of spaced openings to enable the saddle hub to fit pipes and of various outer diameters by attachment to the lateral attachment means of the saddle hub through selected openings in the chain, the saddle hub and the bracelet forming a ring and the lateral attachment means being configured to enable the saddle hub to fit types of different outer diameters. As to claim 13, the saddle member is a bypass hub by virtue of the hole in the pipe. As to claim 14, the saddle hub forms part of a closing tap as disclosed on page 2, line 1-6. As to claim 16 see bolts 16 which include a thread

tapping. As to claim 22, the band is configured to fit to an outer diameter of a pipe on which the saddle is fitted. As to method claims 31-34, see the boring machine "C" mounted in waterproof manner to the saddle hub "A" to which the drill bit 22 is used to bore a hole in the main pipe to tap the main for branching a pipe. However, while the chain is clearly flexible it is not a flat band as defined by the claims of the invention. The British patent discloses that it is known in the art of attaching saddle tees to pipes to secure the saddle to the pipe using either a chain such as chain 11 as shown in fig. 2 or a flat flexible belt as shown in fig. 1, wherein the flat and flexible belt includes a plurality of openings 7 for adjusting to various sized pipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the chain of Hearne which adjustably attaches the saddle hub to the pipe with a flat and flexible band such as band 6 of the British patent '927, in order to reduce pressure points and damage to the pipe caused by small surface areas of sections of the chain against the pipe rather than the entire surface area of the band against the pipe and further due to the recognized equivalence of using a chain or a flat band for attaching a saddle hub to a pipe as evidenced by the British patent '927.

Claims 12,13,16,22-28 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 351,397 to Payne in view of British patent 1,091,927. The Payne saddle coupling discloses the claimed device with a saddle hub "B" including lateral attachment means "C" disposed on each side of the saddle hub and a saddle hub mounting device "C2" including tightening means in the way of threads "C1" the tightening means being configured to cooperate with the lateral attachment means "C" wherein the mounting device is an open and

deformable bracelet in the form of a chain "C2" and defining a plurality of spaced openings to enable the saddle hub to fit pipes and of various outer diameters by attachment to the lateral attachment means of the saddle hub through selected openings in the chain (page 1, lines 60-65), the saddle hub and the bracelet forming a ring and the lateral attachment means being configured to enable the saddle hub to fit types of different outer diameters. As to claim 13, the saddle member is a bypass hub by virtue of the hole being formed in the pipe "A". As to claim 16 see nuts "c" which include a thread tapping. As to claim 22, the band is configured to fit to an outer diameter of a pipe on which the saddle is fitted. As to claim 23 see nuts "c". As to claim 24, see the head of the screw "C" pressing the chain towards the lateral attachment means. As to claim 25, see the fork shape in fig. 1 of the lateral attachment means. As to claim 26 the lateral attachment means forms a T shape with the saddle member hub as viewed in fig. 2 and attaches the chain via nut "c" and screw "C". As to claim 27, the openings in the chain extend from end to end. As to claim 28 see the washer member shown in fig. 2 having a flat surface and a convex surface. As to method claims 31-34, see the boring machine "G" mounted in waterproof manner to the saddle hub "B" to which the drill bit "g" is used to bore a hole in the main pipe to tap the main for branching a pipe. However, while the chain is clearly flexible it is not a flat band as defined by the claims of the invention. The British patent discloses that it is known in the art of attaching saddle tees to pipes to secure the saddle to the pipe using either a chain such as chain 11 as shown in fig. 2 or a flat flexible belt as shown in fig. 1, wherein the flat and flexible belt includes a plurality of openings 7 for adjusting to various sized pipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the chain of Payne which adjustably attaches the saddle hub to the pipe with a flat and flexible

band such as band 6 of the British patent '927, in order to reduce pressure points and damage to the pipe caused by small surface areas of sections of the chain against the pipe rather than the entire surface area of the band against the pipe and further due to the recognized equivalence of using a chain or a flat band for attaching a saddle hub to a pipe as evidenced by the British patent '927.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,360,241 to Gundy in view of U.S. patent 3,471,176 to Gilchrist.

Gundy as noted above discloses the claimed device however the seal 107 is not a fluid pressure seal in the same manner as claimed by applicant in claims 18-21. Fluid pressure seal which use the actual fluid of the coupling to aid in sealing the fluid in the coupling are old and well known as evidenced by Gilchrist which illustrates that it is known in the saddle coupling art to provide a similar type fluid pressure seal with the configuration and structure as described in the claims 18-21. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the seal 107 of Gundy with the fluid pressure seal 32 of Gilchrist, in order to provide a more secure coupling with an increased sealing capabilities generated by the fluid in the pipe.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,360,241 to Gundy. The Gundy device discloses the claimed invention except for the particular material of the hub and band. Bronze and epoxy coatings are common and well known materials in the pipe coupling art for aiding in deterioration resistance. It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to construct the coupling elements of the saddle fitting from either bronze or epoxy coated materials in order to provide added protection to the coupling since such difference is not deemed to be a patentable difference and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Further it is noted that applicant has not argued this point and therefore is considered to be in agreement with the finding of the rejection.

Allowable Subject Matter

Claims 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicants remarks have been reviewed however are deemed moot in view of the newly applied art in the rejections above.

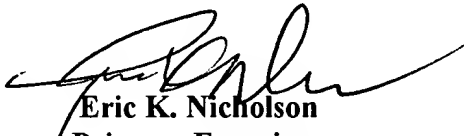
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Nicholson whose telephone number is (703) 308-0829. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone number for Technology Center 3600 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

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4/16/04
W@H



Eric K. Nicholson
Primary Examiner
Technology Center 3600